

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

PGX HOLDINGS, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 23-10718 (CTG)

(Jointly Administered)

Hearing: June 28, 2023 at 2:00 p.m. (ET)

Related Docket No. 13

**OBJECTION OF CAPITOL INDEMNITY CORPORATION TO THE DEBTORS'
MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE
DEBTORS TO (A) MAINTAIN INSURANCE AND SURETY COVERAGE ENTERED
INTO PREPETITION AND PAY RELATED PREPETITION OBLIGATIONS, AND (B)
RENEW, SUPPLEMENT, MODIFY, OR PURCHASE INSURANCE AND SURETY
COVERAGE, AND (II) GRANTING RELATED RELIEF**

TO THE HONORABLE CRAIG T. GOLDBLATT,
UNITED STATES BANKRUPTCY JUDGE:

Capitol Indemnity Corporation ("**CapSpecialty**" or "**Surety**"), by and through its undersigned attorneys, files this objection (the "**Objection**") to the *Debtors Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Maintain Insurance and Surety Coverage Entered Into Prepetition and Pay Related Prepetition Obligations, and (B) Renew, Supplement, Modify, or Purchase Insurance and Surety Coverage, and (II) Granting Related Relief* (the "**Motion**") [ECF No. 13], and respectfully states as follows:

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: PGX Holdings, Inc. (2510); Credit Repair UK, Inc. (4798); Credit.com, Inc. (1580); Creditrepair.com Holdings, Inc. (7536); Creditrepair.com, Inc. (7680); eFolks Holdings, Inc. (5213); eFolks, LLC (5256); John C. Heath, Attorney At Law PC (8362); Progrexion ASG, Inc. (5153); Progrexion Holdings, Inc. (7123); Progrexion IP, Inc. (5179); Progrexion Marketing, Inc. (5073); and Progrexion Teleservices, Inc. (5110). The location of the Debtors' service address for purposes of these chapter 11 cases is: 257 East 200 South, Suite 1200, Salt Lake City, Utah 84111.



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PRELIMINARY STATEMENT

1. In the ordinary course of its businesses and operations, the Debtors are required to provide third parties with surety bonds to guarantee certain of the Debtors' legal and/or contractual obligations, including, but not limited to, the Debtors' compliance with license and permit requirements of the states and municipalities in which the Debtors transact business. As set forth in the Motion, the Debtors cannot lawfully operate without the surety bonds issued by the Surety (or sufficient replacement bonding issued by another surety company).

2. Prepetition, the Surety issued 69 separate surety bonds (each a "**Bond**" and collectively, the "**Bonds**") on behalf of the Debtors, as principals. The Bonds are for the benefit of certain obligees (each an "**Obligee**" and, collectively, the "**Obligees**"), often governmental units and other public agencies or entities, as set forth more particularly in the Schedule of Surety Bonds attached to the Motion as Exhibit "D" [ECF No. 13]. The aggregate penal sum of the Bonds is \$3,780,000.00.

3. There are no existing claims under any Bond, but the Surety may receive claims on the Bonds in the future.

4. The Surety has incurred expenses in connection with furnishing and continuing the Bonds, which expenses are ongoing. The Surety does not hold collateral for the Bonds. The Surety holds two prepetition General Indemnity Agreements, dated April 12, 2021 and May 10, 2021, respectively (collectively, the "Indemnity Agreements"), pursuant to which the Debtors agreed to indemnify, hold harmless, and exonerate Surety from and against any and all Loss (as such term is defined in the Indemnity Agreements) arising out of or related to any Bond(s) issued in accordance with the Indemnity Agreements or which arise as a result of CapSpecialty acting

as surety for the Indemnitor(s). Copies of the April 12, 2021 Indemnity Agreement and the May 10, 2021 Indemnity Agreement are attached hereto as **Exhibits "A"** and **"B"**, respectively.

5. As described more fully below, the Bonds, which have not been cancelled, are a form of postpetition credit for which the Surety is entitled to adequate protection under 11 U.S.C. §§ 361, 363(e), and/or 364(c). The Surety files this Objection because the Debtors seek to use, rely on and profit from the Bonds, in maintaining and continuing the Bonds postpetition, without providing the Surety with adequate protection of its interests. The Surety bonded the prepetition debtor entities; it did not bond the Debtors-in-Possession. The Surety cannot be compelled to involuntarily finance the Debtors-in-Possession by maintaining and continuing the Bonds postpetition without adequate protection. The Surety respectfully submits that such adequate protection should be in the form of collateral (in a form acceptable to the Surety) provided to the Surety in an amount equal to the full, aggregate penal sums of the Bonds; alternatively, the Surety, to the extent it incurs any losses in connection with the Bonds, should be granted administrative expense status with respect to any postpetition claims under the Bonds for the Debtors' prepetition or postpetition defaults of obligations that cause the Surety to sustain a loss under the Bonds and/or the Indemnity Agreements. The Debtors should also be compelled to execute postpetition General Indemnity Agreements in favor of the Surety.

6. To adequately protect the Surety's interests, the final order granting the Motion must provide for adequate protection of the Debtors' obligations to the Surety and/or should include language that is customarily found in final orders granting similar surety bond program motions that have been entered by Courts in this district (see par. 20 infra.), such as the following:

- a. "Any claim asserted by CapSpecialty for indemnification under any Indemnity Agreement, related to or arising out of any actual, potential, or asserted liability of CapSpecialty to any beneficiary or Obligee under any Bond shall be treated as a postpetition claim to the extent that the actual, potential, or asserted liability of the Debtors to any beneficiary or Obligee with respect to such Bond arises out of a postpetition breach of such bonded obligation."²
 - b. "To the extent that any Bond has been issued, is renewed, or remains in place postpetition without cancellation as part of the Surety Bond Program and is subject to the prepetition Indemnity Agreements, the Debtors' indemnification obligations to CapSpecialty under such prepetition Indemnity Agreements arising on account of such Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreements) shall be deemed to be postpetition obligations of the Debtors."
 - c. "To the extent that any Bond is issued, is renewed, or remains in place postpetition without cancellation as part of the Surety Bond Program, the Debtors' shall execute postpetition Indemnity Agreements renewing their obligations to CapSpecialty as to any postpetition Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreements)."
7. In the event the above language is rejected by the Debtors, and/or the Objection is overruled, the Surety intends to move for relief from the automatic stay, so as to permit it to

² Nothing in this Objection shall be construed as: (ii) prejudicing the Debtors' right to contest the amount or validity of any claim against the Debtors in connection with the Surety Bond Program; and/or (ii) rendering any claim by any third party (other than CapSpecialty) based on a prepetition actual, potential, or asserted liability of the Debtors, which claim may or does result in a loss to the Surety, into a postpetition claim or expense of administration.

serve notice of cancellation of the Bonds in accordance with the cancellation provisions of each Bond and applicable non-bankruptcy law.

RELEVANT BACKGROUND

The Chapter 11 Cases

8. On June 4, 2023 (the "**Petition Date**"), the Debtors each commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors are operating their businesses as the Debtors-in-Possession, pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

9. The Debtors' chapter 11 cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**").

10. On June 5, 2023, the Debtors' filed the Motion. On June 6, 2023, the Court entered an *Interim Order (I) Authorizing the Debtors to (A) Maintain Insurance and Surety Coverage Entered Into Prepetition and Pay Related Prepetition Obligations, and (B) Renew, Supplement, Modify, or Purchase Insurance and Surety Coverage, and (II) Granting Related Relief* [ECF No. 63]. Pursuant to the Interim Order, the final hearing with respect to the relief requested in the Motion is scheduled for June 28, 2023.

11. On June 14, 2023, the Acting United States Trustee for Region 3 appointed the statutory committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code. [ECF No. 90].

The Bonds and Indemnity Agreements

12. Pursuant to the Indemnity Agreements, the Debtors agreed, jointly and severally, to indemnify and exonerate the Surety from and against any and all loss (as defined therein),

which the Surety may incur or sustain as a result or in connection with (a) the furnishing of any Bond, or (b) the enforcement of the Indemnity Agreements.

13. As mentioned, the Surety has not yet received a claim from any Obligee, but it may receive claims on the Bonds in the future. The Surety has incurred legal fees and expenses in protecting its rights under the Bonds and Indemnity Agreements, which fees and expenses are ongoing. The Surety does not hold collateral for the Bonds or Indemnity Agreements.

14. As of the date of this Objection, the Surety has not asserted any claims against the Debtors under the Indemnity Agreements but reserves all rights to do so.

OBJECTION

I. CapSpecialty Cannot be Compelled to Maintain or Continue the Bonds to the Debtors-in-Possession Without Adequate Protection Under 11 U.S.C. §§ 361, 363(e), and/or 364(c).

15. The Surety submits that it cannot be compelled to keep the Bonds in place for the benefit of the Debtors-in-Possession without adequate protection under 11 U.S.C. §§ 361, 363(e), and 364(c).

16. The Bankruptcy Code requires adequate protection of a creditor's interest in property in appropriate circumstances – including where, as here, a debtor proposes to use property in which the creditor has an interest. 11 U.S.C. § 363(e). Adequate protection is meant to protect the creditor from a diminution in value of its interest in property during the period of its use. See In re Worldcom, Inc., 304 B.R. 611, 618-19 (Bankr. S.D.N.Y. 2004). What constitutes "adequate protection" is a factual determination that is made on a case-by-case basis. In re Realty Sw. Assocs., 140 B.R. 360, 366 (Bankr. S.D.N.Y. 1992); In re Beker Indus. Corp., 58 B.R. 725, 736 (Bankr. S.D.N.Y. 1986). While adequate protection may take many different forms, section 361 of the Bankruptcy Code lists several potential varieties of protection,

including periodic cash payments, replacement liens, and any other relief that "will result in the realization . . . of the indubitable equivalent of [the creditor's] interest in such property." 11 U.S.C. § 361.

17. Section 363(e) of the Bankruptcy Code provides, in relevant part: "[n]otwithstanding any other provision of this section, at any time, on request of an entity that has an interest in property used...by the trustee, the court, with or without a hearing, shall prohibit or condition such use... as is necessary to provide adequate protection of such interest." 11 U.S.C. § 363(e).

18. In this case, the Debtors are using and relying upon the Bonds to guarantee their on-going postpetition license and permit obligations to various governmental units and public agencies in the states and municipalities where the Debtors operate. In short, without the Bonds, the Debtors cannot operate. So, the Debtors will continue to use and benefit from CapSpecialty's surety credit, postpetition, unless and until the Bonds are cancelled or the Debtors obtain renewal or replacement bonding from another surety company. Upon information and belief, the Debtors have not obtained renewal or replacement bonding from another surety company. Accordingly, the Debtors should be compelled to provide collateral to the Surety in an amount equal to 100% of the aggregate penal sums of the Bonds (and in a form acceptable to the Surety) and/or grant administrative expense status for CapSpecialty relative to any postpetition defaults of prepetition or postpetition obligations of the Debtors arising under or in connection with the Bonds and/or Indemnity Agreements. The Debtors should also be compelled to execute postpetition General Indemnity Agreements in favor of the Surety.

19. Section 364(c) of the Bankruptcy Code permits a debtor unable to obtain unsecured credit allowable in the ordinary course under section 364(a) to obtain credit (1) with

priority over any or all administrative expenses specified in sections 503(b) or 507(b); (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or (3) secured by a junior lien on property of the estate that is subject to a lien. 11 U.S.C. § 364(c). To satisfy the requirements of section 364(c) of the Bankruptcy Code, a debtor need only demonstrate "by a good faith effort that credit was not available" to the debtor on an unsecured or administrative expense basis. Bray v. Shenandoah Fed. Sav. & Loan Assoc. (In re Snowshoe Co.), 789 F.2d 1085, 1088 (4th Cir. 1986) (affirming the lower court's approval of a loan made to the debtor under sections 364(c) and (d)). The Bankruptcy Code "imposes no duty to seek credit from every possible lender before concluding that such credit is unavailable." Id.; see also Anchor Sav. Bank FSB v. Sky Valley, Inc., 99 B.R. 117, 120 n.4 (N.D. Ga. 1989) (finding that "it would be unrealistic and unnecessary" to require a debtor to conduct "an exhaustive search for financing" in cases where few lenders would be willing to extend credit).

20. It will likely be exceedingly difficult for the Debtors to obtain new bonding capacity at this time other than on a fully secured basis. The Surety's maintenance and continuation of the Bonds postpetition should be deemed a secured extension of credit pursuant to section 364(c) of the Bankruptcy Code. The Debtors should be required to fully collateralize the Surety's postpetition maintenance and continuation of the Bonds or, at the very least, grant administrative expense status to CapSpecialty relative to any postpetition defaults of prepetition or postpetition obligations of the Debtors arising under or in connection with the Bonds and Indemnity Agreements. The Debtors should also be compelled to execute postpetition General Indemnity Agreements in favor of CapSpecialty. Courts in this district frequently grant relief similar to that requested herein. See, e.g., In re United Road Trucking, Case No. 17-10249 (LSS) (Bankr. D. Del. Feb. 6, 2017); In re Synagro Technologies, Inc., Case No. 13-11041 (BLS)

(Bankr. D. Del. April 25, 2013); In re Exide Technologies, Case No. 13-11482 (KJC) (Bankr. D. Del. July 11, 2013). Copies of the final bonding orders in those cases are attached collectively as **Exhibit "C"**. In each case, the Bankruptcy Court entered a final order granting a surety program motion that contained language virtually identical to the language proposed by the Surety in paragraphs 6(a) and 6(b) supra.

21. The Surety requests that, to the extent applicable to the relief requested in the Objection, the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h). As described above, the Bonds are necessary for the Debtors to lawfully operate their businesses without interruption and to preserve value for their estates. Accordingly, CapSpecialty respectfully requests waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) as the exigent nature of the relief sought herein justifies immediate relief.

RESERVATION OF RIGHTS

CapSpecialty reserves its rights, in its absolute and sole discretion, to: (i) renew or non-renew any of the Bonds under the terms thereof; (ii) seek an allowance of administrative expense claims for any and all applicable portions of its losses under the Bonds and/or Indemnity Agreements relating to the postpetition performance and/or payment obligations of the Debtors; (iii) draw on any collateral to be posted by the Debtors for the benefit of CapSpecialty for any loss and expense, including reasonable attorneys' fees, incurred by CapSpecialty, as a secured creditor, by reason of having executed the Bonds; (iv) cancel or terminate any of the Bonds under applicable non-bankruptcy law or seek relief from the automatic stay to do so; (v) amend, modify or supplement this Objection including in response to the filing of any additional

documents or exhibits by the Debtors and/or any party-in-interest; and/or (vi) raise additional arguments at or prior to the hearing on the Motion.

CONCLUSION

WHEREFORE, for each of the reasons set forth above, CapSpecialty respectfully requests that the Court deny the Motion or, alternatively, compel the Debtors to revise the proposed final order granting the Motion so that CapSpecialty is provided with adequate protection under 11 U.S.C. §§ 361, 363(e), and/or 364(c), and grant such other or further relief as may be appropriate.

Dated: June 26, 2023
Wilmington, DE

Respectfully submitted,

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Attorneys for Capitol Indemnity Corporation

EXHIBIT "A"

Reference Number _____

GENERAL INDEMNITY AGREEMENT

THIS GENERAL INDEMNITY AGREEMENT (this "Agreement"), is made by

PGX Holdings, Inc.

on its own behalf and on behalf of any of its present or future Affiliates (as defined herein) and their successors and assigns (collectively hereinafter referred to as "Principal") and any additional undersigned persons and/or entities (collectively, and together with Principal, hereinafter referred to as "Indemnitors") in favor of Surety (as defined herein).

WHEREAS, Principal, Indemnitors and their present or future Affiliates, in the course of their business(es), the performance of contracts, and meeting various obligations, by themselves or in joint ventures or combinations with other Persons (as defined herein), may currently or in the future desire or be required to procure, provide, maintain, renew, modify or substitute surety bonds, undertakings, recognizances, instruments of guarantee, consents of surety or other surety obligations; and

WHEREAS, at the request of one or more Indemnitors or their present or future Affiliate(s), Surety has been requested to and/or has executed and/or, from time to time hereafter, may be requested to arrange for the execution of, or procure to be executed Bonds (as defined herein); and

WHEREAS, Indemnitors represent that each of them is specifically and beneficially interested in Surety's execution, procurement, continuation, renewal, modification or substitution of said Bonds.

NOW, THEREFORE, as an inducement to Surety to execute, procure, renew, continue, modify or substitute any and all Bonds on behalf of or at the request of any Indemnitor(s) or their present or future Affiliate(s), Indemnitors for themselves, their successors and assigns, jointly and severally, hereby covenant as follows:

Section 1. Recitals Incorporated – The above recitals are incorporated herein. Indemnitors agree that their representations to Surety in the said recitals are intended to induce Surety to execute, procure, maintain, renew, modify or substitute any and all Bonds, both currently and in the future. Indemnitors further agree that Surety's continuing reliance upon those representations is justified and reasonable, and Indemnitors expressly waive any claim or defense to the contrary.

Section 2. Definitions - Indemnitors agree that the following definitions shall apply to this Agreement, which meanings shall be equally applicable to both the singular and plural forms of such terms:

a. "Person" means any person or entity, whether an individual, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, joint-stock company, trust, estate, unincorporated organization, business association, firm, joint venture, or any other form of business or entity, whether now in existence or hereafter formed:

b. an "Affiliate" of a Person means another Person that directly or indirectly controls, is controlled by or is under common control of such Person. For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Person, whether through the ownership of voting securities, by contract, as trustee or executor or otherwise.

c. "Surety" means any one or more, individually and collectively, of Capitol Indemnity Corporation and/or Platte River Insurance Company, their Affiliates, reinsurers, and any Person executing any Bond or joining with any of the aforesaid companies in executing any Bond at the request of any Indemnitor or its Affiliate, together with their respective successors and assigns.

d. "Indemnitors" - All Persons who sign this Agreement or whose representatives sign this Agreement, or any other agreement or addendum by which such Person agrees to be bound in whole or in part by this Agreement, as well as such Persons' successors or assigns.

e. "Bond" means any surety bond, undertaking, recognizance, instrument of guarantee, consent of surety or other surety obligation, issued in the name(s) or at the request of any Indemnitor or its Affiliate, solely or as a co-venturer with others, whether issued before or after the date of this Agreement by Surety.

f. "Bonded Contract" means any existing or future contract referenced in any Bond, or with respect to which any Bond is issued.

g. "Claim" means any notice of default, notice of claim, request for a pre-default meeting, pre-termination letter, notice of non-payment or non-performance, demand, request for financing or forbearance of any kind, or suit received by, or asserted against, Surety in connection with any Bond.

h. "Loss" means any and all payments, expenses or liability incurred or anticipated by Surety arising from or related to any Bond or this Agreement, including but not limited to attorney's fees, consultant's fees, expert fees, and court costs incurred by Surety arising from or related to a Claim and/or enforcing this Agreement, as well as any and all unpaid premiums for any Bond.

i. "Good Faith" means the absence of dishonesty in fact, intentional fraud or actual malice that directly results in demonstrable and material economic harm to an Indemnitor.

j. the term "Event of Default" shall have the meaning set forth in Paragraph 8 of this Agreement.

Section 3. Premiums - Indemnitors shall pay or cause to be paid promptly on demand each annual premium, and all costs and charges of Surety at its agreed, or in the absence of agreement, at its customary rates, for any and all Bonds issued by Surety, which premiums shall continue to be incurred until all potential liability of Surety under such Bond is extinguished. Indemnitors agree that premium for a Bond is fully earned upon execution of a Bond and is not refundable.

Section 4. Indemnity - Indemnitors shall exonerate, reimburse, indemnify, keep indemnified and hold harmless Surety from and against any and all Loss. In any accounting or suit between Surety and Indemnitors, vouchers or other evidence of any payments made by Surety shall be prima facie evidence of the fact and amount of Indemnitors' liability to Surety; and Surety shall be entitled to reimbursement for all disbursements made under the Good Faith belief that Surety is, was, or might be liable for the sums and amounts so disbursed or that it was necessary or expedient to make such disbursements, whether or not such liability, necessity or expediency actually existed. All such amounts shall bear interest at the rate of 9% per annum from the date of Surety's payment until Surety is fully reimbursed.

Section 5. Collateral Deposit - Upon written demand by Surety, Indemnitors agree to deposit with Surety cash or an irrevocable letter of credit from a bank approved by Surety and in a form acceptable to Surety (hereinafter "Collateral Deposit"). Such Collateral Deposit shall be in the amount that Surety, in its sole discretion, in Good Faith deems sufficient to hold it harmless from and against any potential Loss. It is agreed that the failure of Indemnitors to make any Collateral Deposit demanded by Surety shall cause irreparable harm to Surety for which Surety has no adequate remedy at law, and that Surety shall be entitled to preliminary and final injunctive relief for specific performance of Indemnitors' Collateral Deposit obligation.

Section 6. Surety's Use Of Collateral - Except as may otherwise be agreed in writing by Surety, all collateral of any kind or nature deposited with, and/or assigned or pledged to Surety, including but not limited to any Collateral Deposits, may be held by Surety, without any obligation to earn interest thereupon, until Surety is fully discharged from all potential liability under any and all Bonds. Surety may, at its option and in its sole discretion, and without notice to any Indemnitor, use any and all such collateral, or the proceeds thereof, including any Collateral Deposit(s), in payment of or reimbursement for any Loss.

Section 7. Settlements - Surety shall have the exclusive right, in Good Faith and in its sole discretion, to adjust, pay, compromise, defend or appeal any Claim; and Surety's determination of whether to defend or settle any such Claim shall be binding and conclusive upon the Indemnitors. Indemnitors further agree that Surety's right to compromise Claims under this paragraph shall extend to and include Surety's right to settle and compromise any and all affirmative claims, counterclaims, crossclaims, setoffs, recoupments or rights of any kind or nature that any Indemnitor may have or allege against any Person asserting a Claim and/or whose rights are affected by any Claim.

Section 8. Event Of Default - "Event of Default" shall mean the occurrence of any one or more of the following events: (1) any abandonment, default or declaration of default, material breach, or failure or inability to perform, any Bonded Contract or any obligation under any Bond; (2) the failure or inability of Indemnitors to pay bills or other indebtedness incurred in, or in connection with, the performance of any Bonded Contract; (3) any material breach of any of the terms or provisions of this Agreement; (4) the failure of Indemnitors to pay or discharge, when due, any amounts due to Surety; (5) the insolvency of, or the filing of a voluntary or involuntary petition under the United States Bankruptcy Code or any similar laws of any other jurisdiction with respect to, any Indemnitor, or the filing of any assignment for the benefit of creditors by any Indemnitor, or of the appointment, or of any application for the appointment, of a receiver or trustee for any Indemnitor; (6) any Indemnitor makes or has made any materially false representation to Surety in connection with the request for the issuance, continuation or modification of any Bond, or in connection with any Claim; (7) any Indemnitor is convicted of a felony; or (8) any Indemnitor, if an individual, disappears or absconds.

Section 9. Assignment - Indemnitors hereby assign, pledge and set over to Surety, effective as of the date of execution of any Bond, all rights, title and interests of the Indemnitors, including but not limited to rights acquired after the date of this Agreement, in all real property, and all assets and personal property in which the Indemnitors have an interest, including but not limited to all Accounts; Contracts; inventory; Equipment; General Intangibles and Intellectual Property Rights; Chattel Paper; Commercial Tort Claims; Deposit Accounts; Payment Intangibles; Documents; Goods (including all of its Equipment, Fixtures and Inventory), and all accessions, additions, attachments, improvements, substitutions and replacements thereto and therefor; Instruments; Financial Assets; Fixtures; Letter of Credit Rights; Certificated Securities; Security Entitlements; Investment Property; and to the extent not otherwise included in the foregoing, all other real or personal property of the Indemnitors, whether tangible or intangible, whether now owned or hereafter acquired and wherever located; and all Proceeds of the foregoing. Capitalized terms in the foregoing sentence shall have the meanings ascribed to them in the Uniform Commercial Code as in effect in any applicable jurisdiction. This Agreement shall constitute a security agreement and financing statement and Surety may, at its option and in its sole discretion, without notice to any Indemnitors, perfect its security interest in such assigned assets by filing a UCC-1 financing statement and/or a copy of this Agreement with the appropriate filing offices or registries, as well as any and all other forms of mortgages, liens or deeds authorized by law for giving notice of and/or perfecting Surety's security interest. Upon the occurrence of an Event of Default, Surety, or any Person designated by Surety, may enforce the aforesaid assignments and security interests, and is hereby authorized and empowered by Indemnitors to take any action that Surety may deem appropriate or expedient to obtain possession of the subject assets and personal property.

Section 10. Right Of Immediate Possession And Control - Upon any Event of Default, Surety shall have the right, at its option and in its sole discretion, and without notice to Indemnitors, to take immediate possession and control of Indemnitors' real and personal property, facilities and rights relating to any part or all of the work under any Bonded Contract, including but not limited to (a) any and all amounts due or to become due on account of any such Bonded Contract, including but not limited to progress payments, retention, change orders, proposed change orders, actual or potential requests for additional compensation or equitable adjustments, and rights of setoff or recoupment; (b) any and all supplies, equipment, machinery, tools, materials, plans, specifications, project records, trailers, computers, data and electronically stored information, and intellectual property; (c) any and all rights, title and interest of any Indemnitor(s) in or growing out of any and all contracts, subcontracts, purchase orders, or agreements, and any and all surety bonds or insurance policies associated with such contracts, subcontracts, purchase orders, or agreements; and (d) any and all rights, actions, causes of actions, liens, claims and demands of any kind or nature that any Indemnitor(s) may have or acquire against any Person or property in any way arising under or related to any Bond or Bonded Contract. It is agreed that, upon any Event of Default, and upon written demand by Surety, Indemnitors shall promptly peacefully surrender and transfer to Surety possession and control of any and all such items requested by Surety, and shall execute all instruments requested by Surety to facilitate and document such transfer of possession and control of such items to Surety. Indemnitors further acknowledge that any breach of Indemnitors' obligations under this paragraph shall cause irreparable harm to Surety for which Surety has no adequate remedy at law, and that Surety shall be entitled to preliminary and final injunctive relief for specific performance of such obligations.

Section 11. Appointment Of Surety As Indemnitors' Attorney-In-Fact - Indemnitors hereby irrevocably nominate and appoint Surety, and any Person designated by Surety, as the true and lawful attorney-in-fact of Indemnitors, with full right and authority, but not the obligation, to execute on behalf of, and sign the name of, any Indemnitors to any voucher, release, satisfaction, check, bill of sale, letter of direction and/or any other document or agreement with respect to any and all rights and property assigned and/or transferred by Indemnitors to Surety under this Agreement. Indemnitors hereby ratify and confirm all that such attorney-in-fact or Surety may do for the purposes set forth in this Agreement and/or to facilitate or implement any right granted to Surety hereunder. Indemnitors specifically agree to protect, indemnify and save and hold harmless Surety and such attorney-in-fact against any and all claims, damages, costs and expenses that may in any way arise due to the exercise of the assignments and rights contained in this Agreement and the powers herein granted, specifically waiving any claim that Indemnitors have or might hereafter have against Surety or its attorney-in-fact on account of anything done in enforcing the terms of this Agreement.

Section 12. Trust Fund - Indemnitors designate, set aside and declare as an express trust, and shall hold, treat and honor as a trust, all interest, title and rights in all monies paid, due or to become due under any Bonded Contracts, whether in the possession of any Indemnitor or any other Person, for the benefit and payment of all obligations for which Surety may be liable under any Bond, including but not limited to the payment of Persons supplying labor and materials in the prosecution of work under any Bonded Contract. Surety may, in its sole discretion, open a trust account or accounts ("Trust Accounts") with a bank designated by Surety for the deposit of such trust funds. Upon written demand by Surety, Indemnitors shall deposit in such Trust Accounts any and all such trust funds received by them, and upon the request of Surety shall issue irrevocable letters of direction to other Persons requiring that all future payments arising from or relating to any Bonded Contracts be made into such Trust Accounts. Withdrawals or payments from such Trust Accounts shall require the express written consent of Surety.

Section 13. Surety's Discretion With Respect To Bonds - Surety is authorized and empowered, without notice to or knowledge of Indemnitors, notice being hereby expressly waived, to issue or refrain from issuing any Bonds (including final Bond(s) where Surety has furnished a bid bond or consent of surety), to assent, or to refuse to assent, to any change whatsoever in any Bonds, or to cancel or refrain from cancelling any Bonds, without impairing the validity of this Agreement, and Indemnitors hereby waive any and all claims or defenses against Surety due to its refusal or failure to execute any Bond or to modify, renew, continue, cancel or refrain from cancelling, any Bond under any applicable law pertaining to the release of sureties. Each Indemnitor acknowledges that the Surety has no duty, express or implied, to review any contract, Bond or other form of document by or on behalf of any Indemnitor or its Affiliate, and that the Surety's execution of any Bond is not to be construed as a representation of any kind, express or implied, as to the reasonableness of the terms and conditions contained therein or within any Bonded Contract, the risks of which are the responsibility of the Indemnitors.

Section 14. Access To Financial Information - Indemnitors shall provide Surety or any Person designated by Surety with unrestricted access at any time upon reasonable notice to the financial statements, books, records, electronically-stored information and/or accounts of Indemnitors for the purpose of inspection, copying or reproduction. This access will continue until such time as the liability of Surety under all Bonds is terminated and Surety is fully reimbursed for all amounts due under this Agreement. In addition, each Indemnitor hereby specifically authorizes any financial institution or depository in which its funds or securities may be held to furnish any information requested by Surety relating to such accounts. Indemnitors hereby waive as to Surety any privilege in any accountant's work papers and any other documents or communications that may be subject to any privilege related to the preparation of any financial statements and further agree to provide any additional releases, requests, waivers or any other documents required in order to allow Surety access to the requested information. Indemnitors further expressly authorize Surety to access credit reports and to make such pertinent inquiries as Surety may deem appropriate for any purpose whatsoever, including but not limited to debt collection. Indemnitors acknowledge that Surety may share copies of any and all financial statements, financial documents and any and all other financial information which Surety now has or may hereafter obtain concerning Indemnitors with governmental regulators, auditors, co-sureties, fronting companies and/or reinsurers.

Section 15. Advances - Surety is authorized and empowered, at Surety's option and at its sole and absolute discretion, and without notice to Indemnitors, to guarantee loans, and/or to advance or lend money to or on behalf of any Indemnitor, for the purpose of facilitating the completion of any Bonded Contract(s) and/or in a Good Faith effort to mitigate Surety's possible exposure to Loss under any Bond(s). Indemnitors agree that any and all such money advanced by Surety shall be at its sole and absolute discretion and shall constitute Loss for which Indemnitors are responsible to indemnify Surety under this Agreement, unless and until all such advances and all other Loss is repaid in full with interest.

Section 16. Non-Impairment Of Indemnitors' Obligations - The obligations of the Indemnitors under this Agreement shall not be impaired by, and Surety shall incur no liability on account of: (a) Surety's taking, failure to take, or release of security, collateral, assignment, other indemnity agreements and the like; (b) the release by Surety, on terms satisfactory to it, of any Indemnitors; and/or (c) Surety's enforcement or non-enforcement of any right or cause of action against any Indemnitor or other Person.

Section 17. Surety's Priority - Indemnitors waive and subordinate all rights of indemnity, subrogation and contribution, each against the other, until all obligations to Surety have been first satisfied in full. Further, Indemnitors shall not waive any claim or right of indemnity, subrogation or contribution with regard to any Person, pursuant to any contract, insurance policy, settlement, or otherwise, without the prior written consent of Surety until the obligations of the Indemnitors to Surety under this Agreement have been satisfied in full.

Section 18. Waiver Of Notice By Indemnitors - Indemnitors waive any and all rights to any form notice from or disclosure by Surety with respect to any Claim, or any act, fact, or information coming to the notice or knowledge of Surety concerning their rights or liabilities under this Agreement, any Bonds executed, procured, continued, renewed, modified or substituted by Surety on behalf of any Indemnitor or its Affiliate, any Loss, and any and all other rights or liabilities of Indemnitors, whether Surety has such knowledge or notice before or after the execution of this Agreement. Indemnitors agree that they shall continue to be liable hereunder, notwithstanding any notice to which they might otherwise have been or be entitled, and notwithstanding any defenses they might otherwise have been entitled to assert as a result of lack of notice.

Section 19. Surety's Rights Are Cumulative - Indemnitors shall continue to remain bound under the terms of this Agreement even though Surety may have from time to time heretofore or hereafter, with or without notice to or knowledge of Indemnitors, accepted other agreements of indemnity or collateral, it being expressly understood and agreed that any and all other rights which Surety may have or acquire with respect to Indemnitors and/or others under this Agreement and any such other or additional agreements of indemnity, collateral or rights shall be cumulative and in addition to, not in lieu of, the rights afforded Surety under this Agreement. The rights granted in favor of Surety in this Agreement shall not be deemed a waiver of Surety's common law rights, equitable subrogation rights, statutory rights, or any other rights or remedies to which Surety is or may become entitled. In addition, no failure or delay by Surety in seeking to enforce any right shall be deemed a waiver of that right, nor any other right which Surety is or may become entitled to enforce.

Section 20. Effectiveness Of Agreement - This Agreement shall be liberally construed so as to protect, hold harmless, exonerate, reimburse and indemnify Surety. No modification to this Agreement shall be effective unless made by written endorsement executed by Surety, except that, notwithstanding any language herein to the contrary, the addition to this Agreement of any Indemnitor or Principal, including entities acquired after the date of execution of this Agreement, may be affected by written amendment executed by such Indemnitor or Principal only. Each Indemnitor hereby waives notice of, consents to, and waives all defenses arising from, the addition to this Agreement of any new Principal or Indemnitor, as well as the release of any Principal or Indemnitor, at any time. If any provision of this Agreement is deemed unenforceable, the remainder of this Agreement shall continue in full force and effect.

Section 21. Termination - This Agreement may be terminated prospectively, but not retroactively, as to any Indemnitors upon thirty (30) days' written notice sent by registered or certified mail to Surety at: 1600 Aspen Commons, Middleton, WI 53562. Any such notice of termination shall not discharge any obligations as to Bonds executed, or which Surety had become obligated to execute, prior to the effective date of termination, and shall apply only as to the respective Indemnitors executing and delivering such written notice of termination.

Section 22. Execution - This Agreement shall be effective as to each Indemnitor when it has been executed by such Indemnitor. Facsimile, emailed signatures or electronic signatures shall be deemed to have the same effect as original signatures. INDEMNITORS REPRESENT THAT THEY HAVE CAREFULLY READ AND UNDERSTAND EVERY PROVISION OF THIS AGREEMENT, AND EXPRESSLY DISCLAIM RELIANCE UPON ANY REPRESENTATION NOT EXPRESSLY SET FORTH HEREIN.

IN WITNESS WHEREOF, the Indemnitors who are individuals have hereunder set their hands and the Indemnitors which are partnerships, corporations, or unincorporated associations have caused this Agreement to be duly executed by their authorized representatives on this _____ day of April, in the year 2021.

Indemnitor:

PGX Holdings, Inc.	[REDACTED]
(Type or Print Full Name)	(FEIN / SSN)
257 E 200 S, Ste 1200, Salt Lake City, UT 84111	
(Address)	
By: <i>Chad Wallace</i>	
Chad Wallace / CFO	
(Name/Title)	

Indemnitor:

[REDACTED]	[REDACTED]
(Type or Print Full Name)	(FEIN / SSN)
[REDACTED]	
(Address)	
By: [REDACTED]	
(Name/Title)	

Indemnitor:

(Type or Print Full Name) (FEIN / SSN) (Address) By: (Name/Title)

Indemnitor:

(Type or Print Full Name) (FEIN / SSN) (Address) By: (Name/Title)

Indemnitor:

(Type or Print Full Name) (FEIN / SSN) (Address) By: (Name/Title)

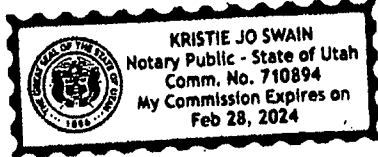
Indemnitor:

(Type or Print Full Name) (FEIN / SSN) (Address) By: (Name/Title)

ENTITY ACKNOWLEDGMENT

STATE OF Utah)
COUNTY OF Salt Lake) SS:

On this 12 day of April, in the year 2021, before me personally appeared Chad Wallace, known or proven to me to be the Chief Financial Officer of PGX Holdings, Inc., the company executing the above instrument; who acknowledged to me that said instrument is the free and voluntary act and deed of said company, for the uses and purposes therein mentioned and on oath stated (s) he executed said instrument by authority of the Board of Directors or other applicable governing body of said company, and (if applicable) affixed the seal of said company hereto.



Kristie Jo Swain (Seal)
Notary Public
My Commission expires: 2-28-2024

ENTITY ACKNOWLEDGMENT

STATE OF _____)
COUNTY OF _____) SS:

On this ____ day of _____, in the year _____, before me personally appeared _____, known or proven to me to be the _____ of _____, the company executing the above instrument; who acknowledged to me that said instrument is the free and voluntary act and deed of said company, for the uses and purposes therein mentioned and on oath stated (s) he executed said instrument by authority of the Board of Directors or other applicable governing body of said company, and (if applicable) affixed the seal of said company hereto.

(Seal)
Notary Public
My Commission expires: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS:)
COUNTY OF _____)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public (Seal)
My Commission expires: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS:)
COUNTY OF _____)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public (Seal)
My Commission expires: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS:)
COUNTY OF _____)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public (Seal)
My Commission expires: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____) -
) SS:)
COUNTY OF _____)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public (Seal)
My Commission expires: _____

EXHIBIT "B"

Reference Number _____

GENERAL INDEMNITY AGREEMENT

THIS GENERAL INDEMNITY AGREEMENT (this "Agreement"), is made by

John C. Heath, Attorney at Law, PC

John C. Heath, Attorney at Law, PC DBA Lexington Law Firm

John C. Heath

on its own behalf and on behalf of any of its present or future Affiliates (as defined herein) and their successors and assigns (collectively hereinafter referred to as "Principal") and any additional undersigned persons and/or entities (collectively, and together with Principal, hereinafter referred to as "Indemnitors") in favor of Surety (as defined herein).

WHEREAS, Principal, Indemnitors and their present or future Affiliates, in the course of their business(es), the performance of contracts, and meeting various obligations, by themselves or in joint ventures or combinations with other Persons (as defined herein), may currently or in the future desire or be required to procure, provide, maintain, renew, modify or substitute surety bonds, undertakings, recognizances, instruments of guarantee, consents of surety or other surety obligations; and

WHEREAS, at the request of one or more Indemnitors or their present or future Affiliate(s), Surety has been requested to and/or has executed and/or, from time to time hereafter, may be requested to arrange for the execution of, or procure to be executed Bonds (as defined herein); and

WHEREAS, Indemnitors represent that each of them is specifically and beneficially interested in Surety's execution, procurement, continuation, renewal, modification or substitution of said Bonds.

NOW, THEREFORE, as an inducement to Surety to execute, procure, renew, continue, modify or substitute any and all Bonds on behalf of or at the request of any Indemnitor(s) or their present or future Affiliate(s), Indemnitors for themselves, their successors and assigns, jointly and severally, hereby covenant as follows:

Section 1. Recitals Incorporated – The above recitals are incorporated herein. Indemnitors agree that their representations to Surety in the said recitals are intended to induce Surety to execute, procure, maintain, renew, modify or substitute any and all Bonds, both currently and in the future. Indemnitors further agree that Surety's continuing reliance upon those representations is justified and reasonable, and Indemnitors expressly waive any claim or defense to the contrary.

Section 2. Definitions - Indemnitors agree that the following definitions shall apply to this Agreement, which meanings shall be equally applicable to both the singular and plural forms of such terms:

a. "Person" means any person or entity, whether an individual, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, joint-stock company, trust, estate, unincorporated organization, business association, firm, joint venture, or any other form of business or entity, whether now in existence or hereafter formed.

b. an "Affiliate" of a Person means another Person that directly or indirectly controls, is controlled by or is under common control of such Person. For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Person, whether through the ownership of voting securities, by contract, as trustee or executor or otherwise.

c. "Surety" means any one or more, individually and collectively, of Capitol Indemnity Corporation and/or Platte River Insurance Company, their Affiliates, reinsurers, and any Person executing any Bond or joining with any of the aforesaid companies in executing any Bond at the request of any Indemnitor or its Affiliate, together with their respective successors and assigns.

d. "Indemnitors" - All Persons who sign this Agreement or whose representatives sign this Agreement, or any other agreement or addendum by which such Person agrees to be bound in whole or in part by this Agreement, as well as such Persons' successors or assigns.

e. "Bond" means any surety bond, undertaking, recognizance, instrument of guarantee, consent of surety or other surety obligation, issued in the name(s) or at the request of any Indemnitor or its Affiliate, solely or as a co-venturer with others, whether issued before or after the date of this Agreement by Surety.

f. "Bonded Contract" means any existing or future contract referenced in any Bond, or with respect to which any Bond is issued.

g. "Claim" means any notice of default, notice of claim, request for a pre-default meeting, pre-termination letter, notice of non-payment or non-performance, demand, request for financing or forbearance of any kind, or suit received by, or asserted against, Surety in connection with any Bond.

h. "Loss" means any and all payments, expenses or liability incurred or anticipated by Surety arising from or related to any Bond or this Agreement, including but not limited to attorney's fees, consultant's fees, expert fees, and court costs incurred by Surety arising from or related to a Claim and/or enforcing this Agreement, as well as any and all unpaid premiums for any Bond.

i. "Good Faith" means the absence of dishonesty in fact, intentional fraud or actual malice that directly results in demonstrable and material economic harm to an Indemnitor.

j. the term "Event of Default" shall have the meaning set forth in Paragraph 8 of this Agreement.

Section 3. Premiums - Indemnitors shall pay or cause to be paid promptly on demand each annual premium, and all costs and charges of Surety at its agreed, or in the absence of agreement, at its customary rates, for any and all Bonds issued by Surety, which premiums shall continue to be incurred until all potential liability of Surety under such Bond is extinguished. Indemnitors agree that premium for a Bond is fully earned upon execution of a Bond and is not refundable.

Section 4. Indemnity - Indemnitors shall exonerate, reimburse, indemnify, keep indemnified and hold harmless Surety from and against any and all Loss. In any accounting or suit between Surety and Indemnitors, vouchers or other evidence of any payments made by Surety shall be prima facie evidence of the fact and amount of Indemnitors' liability to Surety; and Surety shall be entitled to reimbursement for all disbursements made under the Good Faith belief that Surety is, was, or might be liable for the sums and amounts so disbursed or that it was necessary or expedient to make such disbursements, whether or not such liability, necessity or expediency actually existed. All such amounts shall bear interest at the rate of 9% per annum from the date of Surety's payment until Surety is fully reimbursed.

Section 5. Collateral Deposit - Upon written demand by Surety, Indemnitors agree to deposit with Surety cash or an irrevocable letter of credit from a bank approved by Surety and in a form acceptable to Surety (hereinafter "Collateral Deposit"). Such Collateral Deposit shall be in the amount that Surety, in its sole discretion, in Good Faith deems sufficient to hold it harmless from and against any potential Loss. It is agreed that the failure of Indemnitors to make any Collateral Deposit demanded by Surety shall cause irreparable harm to Surety for which Surety has no adequate remedy at law, and that Surety shall be entitled to preliminary and final injunctive relief for specific performance of Indemnitors' Collateral Deposit obligation.

Section 6. Surety's Use Of Collateral - Except as may otherwise be agreed in writing by Surety, all collateral of any kind or nature deposited with, and/or assigned or pledged to Surety, including but not limited to any Collateral Deposits, may be held by Surety, without any obligation to earn interest thereupon, until Surety is fully discharged from all potential liability under any and all Bonds. Surety may, at its option and in its sole discretion, and without notice to any Indemnitor, use any and all such collateral, or the proceeds thereof, including any Collateral Deposit(s), in payment of or reimbursement for any Loss.

Section 7. Settlements - Surety shall have the exclusive right, in Good Faith and in its sole discretion, to adjust, pay, compromise, defend or appeal any Claim; and Surety's determination of whether to defend or settle any such Claim shall be binding and conclusive upon the Indemnitors. Indemnitors further agree that Surety's right to compromise Claims under this paragraph shall extend to and include Surety's right to settle and compromise any and all affirmative claims, counterclaims, crossclaims, setoffs, recoupments or rights of any kind or nature that any Indemnitor may have or allege against any Person asserting a Claim and/or whose rights are affected by any Claim.

Section 8. Event Of Default - "Event of Default" shall mean the occurrence of any one or more of the following events: (1) any abandonment, default or declaration of default, material breach, or failure or inability to perform, any Bonded Contract or any obligation under any Bond; (2) the failure or inability of Indemnitors to pay bills or other indebtedness incurred in, or in connection with, the performance of any Bonded Contract; (3) any material breach of any of the terms or provisions of this Agreement; (4) the failure of Indemnitors to pay or discharge, when due, any amounts due to Surety; (5) the insolvency of, or the filing of a voluntary or involuntary petition under the United States Bankruptcy Code or any similar laws of any other jurisdiction with respect to, any Indemnitor, or the filing of any assignment for the benefit of creditors by any Indemnitor, or of the appointment, or of any application for the appointment, of a receiver or trustee for any Indemnitor; (6) any Indemnitor makes or has made any materially false representation to Surety in connection with the request for the issuance, continuation or modification of any Bond, or in connection with any Claim; (7) any Indemnitor is convicted of a felony; or (8) any Indemnitor, if an individual, disappears or absconds.

Section 9. Assignment - Indemnitors hereby assign, pledge and set over to Surety, effective as of the date of execution of any Bond, all rights, title and interests of the Indemnitors, including but not limited to rights acquired after the date of this Agreement, in all real property, and all assets and personal property in which the Indemnitors have an interest, including but not limited to all Accounts; Contracts; Inventory; Equipment; General Intangibles and Intellectual Property Rights; Chattel Paper; Commercial Tort Claims; Deposit Accounts; Payment Intangibles; Documents; Goods (including all of its Equipment, Fixtures and Inventory), and all accessions, additions, attachments, improvements, substitutions and replacements thereto and therefor; Instruments; Financial Assets; Fixtures; Letter of Credit Rights; Certificated Securities; Security Entitlements; Investment Property; and to the extent not otherwise included in the foregoing, all other real or personal property of the Indemnitors, whether tangible or intangible, whether now owned or hereafter acquired and wherever located; and all Proceeds of the foregoing. Capitalized terms in the foregoing sentence shall have the meanings ascribed to them in the Uniform Commercial Code as in effect in any applicable jurisdiction. This Agreement shall constitute a security agreement and financing statement and Surety may, at its option and in its sole discretion, without notice to any Indemnitors, perfect its security interest in such assigned assets by filing a UCC-1 financing statement and/or a copy of this Agreement with the appropriate filing offices or registries, as well as any and all other forms of mortgages, liens or deeds authorized by law for giving notice of and/or perfecting Surety's security interest. Upon the occurrence of an Event of Default, Surety, or any Person designated by Surety, may enforce the aforesaid assignments and security interests, and is hereby authorized and empowered by Indemnitors to take any action that Surety may deem appropriate or expedient to obtain possession of the subject assets and personal property.

Section 10. Right Of Immediate Possession And Control - Upon any Event of Default, Surety shall have the right, at its option and in its sole discretion, and without notice to Indemnitors, to take immediate possession and control of Indemnitors' real and personal property, facilities and rights relating to any part or all of the work under any Bonded Contract, including but not limited to (a) any and all amounts due or to become due on account of any such Bonded Contract, including but not limited to progress payments, retention, change orders, proposed change orders, actual or potential requests for additional compensation or equitable adjustments, and rights of setoff or recoupment; (b) any and all supplies, equipment, machinery, tools, materials, plans, specifications, project records, trailers, computers, data and electronically stored information, and intellectual property; (c) any and all rights, title and interest of any Indemnitor(s) in or growing out of any and all contracts, subcontracts, purchase orders, or agreements, and any and all surety bonds or insurance policies associated with such contracts, subcontracts, purchase orders, or agreements; and (d) any and all rights, actions, causes of actions, liens, claims and demands of any kind or nature that any Indemnitor(s) may have or acquire against any Person or property in any way arising under or related to any Bond or Bonded Contract. It is agreed that, upon any Event of Default, and upon written demand by Surety, Indemnitors shall promptly peacefully surrender and transfer to Surety possession and control of any and all such items requested by Surety, and shall execute all instruments requested by Surety to facilitate and document such transfer of possession and control of such items to Surety. Indemnitors further acknowledge that any breach of Indemnitors' obligations under this paragraph shall cause irreparable harm to Surety for which Surety has no adequate remedy at law, and that Surety shall be entitled to preliminary and final injunctive relief for specific performance of such obligations.

Section 11. Appointment Of Surety As Indemnitors' Attorney-In-Fact - Indemnitors hereby irrevocably nominate and appoint Surety, and any Person designated by Surety, as the true and lawful attorney-in-fact of Indemnitors, with full right and authority, but not the obligation, to execute on behalf of, and sign the name of, any Indemnitors to any voucher, release, satisfaction, check, bill of sale, letter of direction and/or any other document or agreement with respect to any and all rights and property assigned and/or transferred by Indemnitors to Surety under this Agreement. Indemnitors hereby ratify and confirm all that such attorney-in-fact or Surety may do for the purposes set forth in this Agreement and/or to facilitate or implement any right granted to Surety hereunder. Indemnitors specifically agree to protect, indemnify and save and hold harmless Surety and such attorney-in-fact against any and all claims, damages, costs and expenses that may in any way arise due to the exercise of the assignments and rights contained in this Agreement and the powers herein granted, specifically waiving any claim that Indemnitors have or might hereafter have against Surety or its attorney-in-fact on account of anything done in enforcing the terms of this Agreement.

Section 12. Trust Fund - Indemnitors designate, set aside and declare as an express trust, and shall hold, treat and honor as a trust, all interest, title and rights in all monies paid, due or to become due under any Bonded Contracts, whether in the possession of any Indemnitor or any other Person, for the benefit and payment of all obligations for which Surety may be liable under any Bond, including but not limited to the payment of Persons supplying labor and materials in the prosecution of work under any Bonded Contract. Surety may, in its sole discretion, open a trust account or accounts ("Trust Accounts") with a bank designated by Surety for the deposit of such trust funds. Upon written demand by Surety, Indemnitors shall deposit in such Trust Accounts any and all such trust funds received by them, and upon the request of Surety shall issue irrevocable letters of direction to other Persons requiring that all future payments arising from or relating to any Bonded Contracts be made into such Trust Accounts. Withdrawals or payments from such Trust Accounts shall require the express written consent of Surety.

Section 13. Surety's Discretion With Respect To Bonds - Surety is authorized and empowered, without notice to or knowledge of Indemnitors, notice being hereby expressly waived, to issue or refrain from issuing any Bonds (including final Bond(s) where Surety has furnished a bid bond or consent of surety), to assent, or to refuse to assent, to any change whatsoever in any Bonds, or to cancel or refrain from cancelling any Bonds, without impairing the validity of this Agreement, and Indemnitors hereby waive any and all claims or defenses against Surety due to its refusal or failure to execute any Bond or to modify, renew, continue, cancel or refrain from cancelling, any Bond under any applicable law pertaining to the release of sureties. Each Indemnitor acknowledges that the Surety has no duty, express or implied, to review any contract, Bond or other form of document by or on behalf of any Indemnitor or its Affiliate, and that the Surety's execution of any Bond is not to be construed as a representation of any kind, express or implied, as to the reasonableness of the terms and conditions contained therein or within any Bonded Contract, the risks of which are the responsibility of the Indemnitors.

Section 14. Access To Financial Information - Indemnitors shall provide Surety or any Person designated by Surety with unrestricted access at any time upon reasonable notice to the financial statements, books, records, electronically-stored information and/or accounts of Indemnitors for the purpose of inspection, copying or reproduction. This access will continue until such time as the liability of Surety under all Bonds is terminated and Surety is fully reimbursed for all amounts due under this Agreement. In addition, each Indemnitor hereby specifically authorizes any financial institution or depository in which its funds or securities may be held to furnish any information requested by Surety relating to such accounts. Indemnitors hereby waive as to Surety any privilege in any accountant's work papers and any other documents or communications that may be subject to any privilege related to the preparation of any financial statements and further agree to provide any additional releases, requests, waivers or any other documents required in order to allow Surety access to the requested information. Indemnitors further expressly authorize Surety to access credit reports and to make such pertinent inquiries as Surety may deem appropriate for any purpose whatsoever, including but not limited to debt collection. Indemnitors acknowledge that Surety may share copies of any and all financial statements, financial documents and any and all other financial information which Surety now has or may hereafter obtain concerning Indemnitors with governmental regulators, auditors, co-sureties, fronting companies and/or reinsurers.

Section 15. Advances - Surety is authorized and empowered, at Surety's option and at its sole and absolute discretion, and without notice to Indemnitors, to guarantee loans, and/or to advance or lend money to or on behalf of any Indemnitor, for the purpose of facilitating the completion of any Bonded Contract(s) and/or in a Good Faith effort to mitigate Surety's possible exposure to Loss under any Bond(s). Indemnitors agree that any and all such money advanced by Surety shall be at its sole and absolute discretion and shall constitute Loss for which Indemnitors are responsible to indemnify Surety under this Agreement, unless and until all such advances and all other Loss is repaid in full with interest.

Section 16. Non-Impairment Of Indemnitors' Obligations - The obligations of the Indemnitors under this Agreement shall not be impaired by, and Surety shall incur no liability on account of: (a) Surety's taking, failure to take, or release of security, collateral, assignment, other indemnity agreements and the like; (b) the release by Surety, on terms satisfactory to it, of any Indemnitors; and/or (c) Surety's enforcement or non-enforcement of any right or cause of action against any Indemnitor or other Person.

Section 17. Surety's Priority - Indemnitors waive and subordinate all rights of indemnity, subrogation and contribution, each against the other, until all obligations to Surety have been first satisfied in full. Further, Indemnitors shall not waive any claim or right of indemnity, subrogation or contribution with regard to any Person, pursuant to any contract, insurance policy, settlement, or otherwise, without the prior written consent of Surety until the obligations of the Indemnitors to Surety under this Agreement have been satisfied in full.

Section 18. Waiver Of Notice By Indemnitors - Indemnitors waive any and all rights to any form notice from or disclosure by Surety with respect to any Claim, or any act, fact, or information coming to the notice or knowledge of Surety concerning their rights or liabilities under this Agreement, any Bonds executed, procured, continued, renewed, modified or substituted by Surety on behalf of any Indemnitor or its Affiliate, any Loss, and any and all other rights or liabilities of Indemnitors, whether Surety has such knowledge or notice before or after the execution of this Agreement. Indemnitors agree that they shall continue to be liable hereunder, notwithstanding any notice to which they might otherwise have been or be entitled, and notwithstanding any defenses they might otherwise have been entitled to assert as a result of lack of notice.

Section 19. Surety's Rights Are Cumulative - Indemnitors shall continue to remain bound under the terms of this Agreement even though Surety may have from time to time heretofore or hereafter, with or without notice to or knowledge of Indemnitors, accepted other agreements of indemnity or collateral, it being expressly understood and agreed that any and all other rights which Surety may have or acquire with respect to Indemnitors and/or others under this Agreement and any such other or additional agreements of indemnity, collateral or rights shall be cumulative and in addition to, not in lieu of, the rights afforded Surety under this Agreement. The rights granted in favor of Surety in this Agreement shall not be deemed a waiver of Surety's common law rights, equitable subrogation rights, statutory rights, or any other rights or remedies to which Surety is or may become entitled. In addition, no failure or delay by Surety in seeking to enforce any right shall be deemed a waiver of that right, nor any other right which Surety is or may become entitled to enforce.

Section 20. Effectiveness Of Agreement - This Agreement shall be liberally construed so as to protect, hold harmless, exonerate, reimburse and indemnify Surety. No modification to this Agreement shall be effective unless made by written endorsement executed by Surety, except that, notwithstanding any language herein to the contrary, the addition to this Agreement of any Indemnitor or Principal, including entities acquired after the date of execution of this Agreement, may be affected by written amendment executed by such Indemnitor or Principal only. Each Indemnitor hereby waives notice of, consents to, and waives all defenses arising from, the addition to this Agreement of any new Principal or Indemnitor, as well as the release of any Principal or Indemnitor, at any time. If any provision of this Agreement is deemed unenforceable, the remainder of this Agreement shall continue in full force and effect.

Section 21. Termination - This Agreement may be terminated prospectively, but not retroactively, as to any Indemnitors upon thirty (30) days' written notice sent by registered or certified mail to Surety at: 1600 Aspen Commons, Middleton, WI 53562. Any such notice of termination shall not discharge any obligations as to Bonds executed, or which Surety had become obligated to execute, prior to the effective date of termination, and shall apply only as to the respective Indemnitors executing and delivering such written notice of termination.

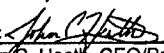
Section 22. Execution - This Agreement shall be effective as to each Indemnitor when it has been executed by such Indemnitor. Facsimile, emailed signatures or electronic signatures shall be deemed to have the same effect as original signatures. **INDEMNITORS REPRESENT THAT THEY HAVE CAREFULLY READ AND UNDERSTAND EVERY PROVISION OF THIS AGREEMENT, AND EXPRESSLY DISCLAIM RELIANCE UPON ANY REPRESENTATION NOT EXPRESSLY SET FORTH HEREIN.**

IN WITNESS WHEREOF, the Indemnitors who are individuals have hereunder set their hands and the Indemnitors which are partnerships, corporations, or unincorporated associations have caused this Agreement to be duly executed by their authorized representatives on this _____ day of _____, in the year 2021.

Indemnitor:

John C. Heath, Attorney at Law, PC
 (Type or Print Full Name) (FEIN / SSN)

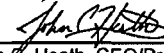
2875 South Decker Lake Drive Suite 200, West Valley City, UT 84119
 (Address)

By: 
 John C. Heath, CEO/President
 (Name/Title)

Indemnitor:

John C. Heath, Attorney at Law, PC DBA Lexington Law Firm
 (Type or Print Full Name) (FEIN / SSN)

2875 South Decker Lake Drive Suite 200, West Valley City, UT 84119
 (Address)

By: 
 John C. Heath, CEO/President
 (Name/Title)

Indemnitor:

John C. Heath, individually
 (Type or Print Full Name) (FEIN / SSN)

4861 W. Fish Hook Road, South Jordan, Utah 84009
 (Address)

By: John C. Heath
 John C. Heath
 (Name/Title)

Indemnitor:

(Type or Print Full Name) (FEIN / SSN)

(Address)

By:
 (Name/Title)

Indemnitor:

(Type or Print Full Name) (FEIN / SSN)

(Address)

By:
 (Name/Title)

Indemnitor:

(Type or Print Full Name) (FEIN / SSN)

(Address)

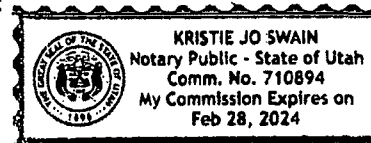
By:
 (Name/Title)

ENTITY ACKNOWLEDGMENT

STATE OF UTAH)
) SS:
 COUNTY OF Salt Lake)

On this 10 day of May, in the year 2021, before me personally appeared John C. Heath, known or proven to me to be the CEO/President of John C. Heath, Attorney at Law, PC, the company executing the above instrument; who acknowledged to me that said instrument is the free and voluntary act and deed of said company, for the uses and purposes therein mentioned and on oath stated (s) he executed said instrument by authority of the Board of Directors or other applicable governing body of said company, and (if applicable) affixed the seal of said company hereto.

Kristie Jo Swain (Seal)
 Notary Public
 My Commission expires:

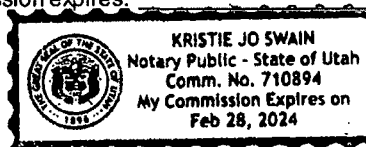


ENTITY ACKNOWLEDGMENT

STATE OF UTAH)
) SS:
 COUNTY OF Salt Lake)

On this 10 day of May, in the year 2021, before me personally appeared John C. Heath, known or proven to me to be the CEO/President of John C. Heath, Attorney at Law, PC DBA Lexington Law Firm, the company executing the above instrument; who acknowledged to me that said instrument is the free and voluntary act and deed of said company, for the uses and purposes therein mentioned and on oath stated (s) he executed said instrument by authority of the Board of Directors or other applicable governing body of said company, and (if applicable) affixed the seal of said company hereto.

Kristie Jo Swain (Seal)
 Notary Public
 My Commission expires:

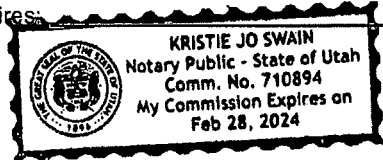


INDIVIDUAL ACKNOWLEDGMENT

STATE OF UTAH)
) SS:)
COUNTY OF Salt Lake)

On this 10 day of May, 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared John C. Heath, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Kristie Jo Swain (Seal)
Notary Public
My Commission expires: _____



INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS:)
COUNTY OF _____)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public (Seal)
My Commission expires: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS:)
COUNTY OF _____)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public (Seal)
My Commission expires: _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF _____)
) SS:)
COUNTY OF _____)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, known to or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

Notary Public (Seal)
My Commission expires: _____

EXHIBIT "C"

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re :
 : **Chapter 11**
 :
 :
 UNITED ROAD TOWING, INC. *et al.*, : **Case No. 17-10249 (LSS)**
 : **Jointly Administered**
 :
 Debtors.¹ : **Docket Ref. No. 35**
 :
 :

**FINAL ORDER (I) AUTHORIZING THE DEBTORS TO CONTINUE THEIR SURETY
BOND PROGRAM AND PAY ALL OBLIGATIONS IN RESPECT THEREOF,
(II) AUTHORIZING APPLICABLE BANKS AND OTHER FINANCIAL
INSTITUTIONS TO HONOR AND PROCESS RELATED CHECKS AND TRANSFERS,
AND (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² United Road Towing, Inc. and its affiliated debtors, as debtors in possession in the above-captioned Chapter 11 Cases (collectively, the "Debtors") for entry of a final order (the "Final Order") (i) authorizing the Debtors to continue their Surety Bond Program and satisfy payment of all prepetition obligations related thereto, (ii) authorizing applicable banks and other financial institutions to honor and process related checks and transfers; and upon consideration of the First Day Declaration, and (iii) granting related relief; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of*

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: United Road Towing, Inc. (6962); URT Holdings, Inc. (8341); City Towing Inc. (2118); URS West, Inc. (3518); Bill & Wags, Inc. (3518); Export Enterprises of Massachusetts, Inc. (5689); Pat's Towing, Inc. (6964); Keystone Towing, Inc. (6356); Ross Baker Towing, Inc. (9742); URT Texas, Inc. (3716); Mart-Caudle Corporation (1912); Signature Towing, Inc. (3054); WHW Transport, Inc. (3055); URS Southeast, Inc. (7289); URS Northeast, Inc. (7290); URS Southwest, Inc. (7284); Fast Towing, Inc. (5898); E & R Towing and Garage, Inc. (8500); Sunrise Towing, Inc. (7160); Ken Lehman Enterprises Inc. (1970); United Road Towing South Florida, Inc. (9186); Rapid Recovery Incorporated (1659); United Road Towing Services, Inc. (2206); Arri Brothers, Inc. (7962); Rancho Del Oro Companies, Inc. (3924); CSCBD, Inc. (2448); URS Leasing, Inc. (9072); UR VMS, LLC (4904); UR Vehicle Management Solutions, Inc. (0402). The Debtors' mailing address is c/o United Road Towing, Inc., 9550 Bormet Drive, Suite 301, Mokena, Illinois 60448.

² All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

Delaware, dated February 29, 2012; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for a hearing on the Motion having been given; and the relief requested in the Motion being in the best interests of the Debtors' estates, their creditors and other parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The relief requested in the Motion is GRANTED on a final basis.
2. The Debtors are authorized, but not directed, to maintain the Surety Bond Program without interruption, including paying any prepetition or postpetition premiums and other obligations (including, without limitation, those obligations with respect to which letters of credit have been issued), providing collateral, renewing or obtaining new surety bonds, and executing other agreements in connection with the Surety Bond Program, in each case in the ordinary course of business. Provided that the Debtors maintain their Surety Bond Program in the ordinary course, including paying premiums, and are not in default with respect to any such Surety Bond or have promptly upon demand cured any default thereunder within five (5) days of such demand, no Surety shall seek relief from the automatic stay, or take any other action, to cancel any outstanding Surety Bond; provided, however, that nothing herein shall preclude a Surety from either (i) declining to renew any existing Surety Bond, (ii) declining to extend any existing Surety Bond beyond its term, (iii) declining to provide consent to, or otherwise exercising any rights in response to, the proposed assumption and/or assignment of any existing

Surety Bond, any indemnity agreements between the Surety and any Debtor(s) or other indemnitor, and/or any underlying bonded contract, whether pursuant to a sale, plan or other process, or from exercising any other or further rights with respect to a sale, plan or similar process; (iv) declining to issue any new or additional Surety Bond; or (v) cancelling any Surety Bonds at the request of the Debtors.

3. Any claim asserted by a Surety for indemnification under any Indemnity Agreement, related to or arising out of any actual, potential, or asserted liability of the Surety to any beneficiary or obligee under any Surety Bond shall be treated as a postpetition claim to the extent that the actual, potential, or asserted liability of the Debtors to any beneficiary or obligee under the applicable bonded contract arises out of a postpetition breach of such bonded contract.³

4. To the extent that any Surety Bond was issued, is renewed, or remains in place postpetition without cancellation as part of the Surety Bond Program and is subject to a prepetition Indemnity Agreement, the Debtors' indemnification obligations under such prepetition Indemnity Agreement arising on account of such Surety Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreement) shall be deemed to be postpetition obligations of the Debtors.

5. In accordance with this Final Order and any other order of this Court, the financial institutions at which the Debtors maintain their accounts (the "Banks") shall be, and hereby are, authorized, when requested by the Debtors (in the Debtors' discretion), to honor and pay all checks or electronic fund transfers drawn on the Debtors' accounts for the payments authorized pursuant to this Final Order, whether such payments were presented prior to or

³ As used in this Final Order, the term "Surety Bond" shall mean bonds issued by Capitol Indemnity Company and/or Platte River Insurance Company at the request and on behalf of the Debtors and/or their employees, as principals, including, without limitation, such bonds as described in the chart attached hereto as Exhibit A.

following the Petition Date, provided that sufficient funds are on deposit in such accounts to honor and make such payments.

6. The Banks may rely on the representations of the Debtors with respect to whether any check or electronic fund transfers drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this Final Order, and any such Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for in this Interim Order.

7. The Debtors are authorized to issue post-petition checks, or to effect post-petition electronic fund transfers, in replacement of any checks or electronic fund transfers in respect of payments authorized by this Final Order that are dishonored or rejected after the Petition Date.

8. Notwithstanding anything to the contrary in this Final Order, any rights, obligations, or authorizations contained in this Final Order shall not be construed in any manner modify or limit the DIP Agent's, DIP Lenders', and/or any Prepetition Secured Party's rights or otherwise expand the DIP Agent's, DIP Lenders', and/or any Prepetition Secured Party's obligations as set forth in the *Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001 and 9014 (I) Granting Authorization on a Final Basis for Debtors to (A) Obtain Postpetition Financing, (B) Use Cash Collateral of Prepetition ABL Lenders and Granting Adequate Protection, (II) Granting Authorization on a Further Interim Basis to Use Cash Collateral of Prepetition Term Lenders and Granting Adequate Protection, (III) Modifying the Automatic Stay, (IV) Granting Related Relief, and (V) Scheduling Final Cash Collateral Hearing* [Docket No. 140], as amended and restated from time to time, including, without limitation, any limitation appearing in Paragraph 34, clause (2) thereof.

9. Nothing in this Final Order: (i) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtors or their estates; (ii) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors or their estates to contest the validity, priority, or amount of any claim against the Debtors or their estates; (iii) shall impair, prejudice, waive, or otherwise affect the rights of the Debtors or their estates with respect to any and all claims or causes of action against any third party; or (iv) shall be construed as a promise to pay a claim or continue any applicable program post-petition, which decision shall be in the discretion of the Debtors. Any payment made pursuant to this Order is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

10. Nothing herein renders any claim by any third party based on a prepetition, actual, potential or asserted liability of the Debtors which claim may or does result in a loss to a surety under the Surety Bond Program into a postpetition claim or expense of administration.

11. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion under the circumstances and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

12. Notwithstanding the applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.

13. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Final Order in accordance with the Motion.

14. This Court retains exclusive jurisdiction over all matters arising from or related to the implementation, interpretation and enforcement of this Final Order.

Dated: May 22, 2017
Wilmington, Delaware


UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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	:	
In re:	:	Chapter 11
	:	
SYNAGRO TECHNOLOGIES, INC., et al.,	:	Case No. 13-11041 (BLS)
	:	
Debtors. ¹	:	Jointly Administered
	:	
-----	x	Related Docket No. 16, 53, 73

**FINAL ORDER GRANTING DEBTORS' MOTION FOR ORDER PURSUANT TO
BANKRUPTCY CODE SECTIONS 363 AND 364 AND BANKRUPTCY RULES 6003
AND 6004 AUTHORIZING DEBTORS TO MAINTAIN, CONTINUE, AND
RENEW THEIR SURETY BOND PROGRAM**

Upon the motion (the "Motion")² of the Debtors for interim and final orders, pursuant to sections 363 and 364 of title 11 of the United States Code (the "Bankruptcy Code"), and Rule 6003 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") authorizing, but not directing, the Debtors to maintain, continue, and renew, in their sole discretion, their Surety Bond Program; and upon the First Day Declaration; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Drilling Solutions, LLC (9935); Earthwise Organics, LLC (5458); Environmental Protection & Improvement Company, LLC (2397); NETCO - Waterbury, LP (5202); New Haven Residuals, LP (2758); New York Organic Fertilizer Company (8694); Providence Soils, LLC (9061); Soaring Vista Properties, LLC (4015); South Kern Industrial Center, LLC (2099); ST Interco, Inc. (4897); Synagro - Connecticut, LLC (5532); Synagro - WCWNJ, LLC (0817); Synagro - WWT, Inc. (0492); Synagro Central, LLC (2568); Synagro Composting Company of California, LLC (7671); Synagro Detroit, LLC (1107); Synagro Drilling Solutions, LLC (4598); Synagro-Hypex, LLC (2544); Synagro Management, LP (4546); Synagro Northeast, LLC (2564); Synagro of California, LLC (8598); Synagro of Minnesota - Rehbein, LLC (7969); Synagro of Texas - CDR, Inc. (8566); Synagro Product Distribution, LLC (4357); Synagro South, LLC (2567); Synagro Technologies, Inc. (9860); Synagro Texas, LLC (4372); Synagro West, LLC (2566); Synagro Woonsocket, LLC (1634); Synatech Holdings, Inc. (5544). The Debtors' address is 1800 Bering Drive, Suite 1000, Houston, Texas 77057.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

requested by the Motion is in the best interests of the Debtors, their estates, their creditors, their stakeholders, and other parties in interest; and after due deliberation thereon, and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED that:

1. Pursuant to sections 363 and 364 of the Bankruptcy Code, the Motion is GRANTED as set forth herein.
2. The Debtors are authorized, but not directed, to maintain their Surety Bond Program without interruption, including with respect to obligations arising under the Surety Bond Program on account of Surety Bonds issued on behalf of the Debtors' non-Debtor affiliates, and to pay all postpetition obligations relating to the Surety Bond Program.
3. The Debtors are authorized, but not directed, to maintain and renew existing Surety Bonds and to procure new Surety Bonds with the Debtors' existing Sureties or any new or additional Sureties that become participants of the Surety Bond Program. In connection with the maintenance and renewal of existing Surety Bonds or the procurement of new Surety Bonds, the Debtors are authorized, but not directed, to (i) provide cash collateral and/or letter of credit collateral to secure the Surety Bonds, solely to the extent agreed upon by the Debtors and the Surety and as otherwise permitted by the DIP Facility; (ii) execute any other agreements in connection with the Surety Bond Program, including, without limitation new Indemnity Agreements, and all related instruments, documents, and papers; and (iii) take all actions reasonably appropriate with respect thereto, in each case in accordance with the applicable documents governing the Surety Bond Program.
4. Any claim asserted by a Surety for indemnification under any Indemnity Agreement, related to or arising out of any actual, potential, or asserted liability of the Surety to

any beneficiary or obligee under any Surety Bond (including Surety Bonds issued on behalf of any non-debtor affiliates of the Debtors) shall be treated as a postpetition claim to the extent that the actual, potential, or asserted liability of the Debtors to any beneficiary or obligee under the applicable bonded contract arises out of a postpetition breach of such bonded contract.

5. To the extent that any Surety Bond is issued or renewed postpetition as part of the Surety Bond Program and is subject to a prepetition Indemnity Agreement, the Debtors' indemnification obligations under such prepetition Indemnity Agreement arising on account of such postpetition Surety Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreement) shall be deemed to be postpetition obligations of the Debtors.

6. Provided that the Debtors maintain their Surety Program in the ordinary course, including paying premiums, and are not in default with respect to any such Surety Bond or have promptly upon demand cured any default thereunder, the Sureties shall not seek relief from the automatic stay to, or take any other action to, cancel any outstanding Surety Bond; provided, however, that nothing herein shall preclude any Surety from either (i) declining to renew any existing Surety Bond, (ii) declining to extend any existing Surety Bond beyond its term, or (iii) declining to issue any new or additional Surety Bond. Notwithstanding anything in this Order to the contrary, nothing shall preclude any Surety from providing notice of such Surety's intention not to renew or extend any existing Surety Bond.

7. The failure to specifically describe or include any particular feature of the Surety Bond Program in this Order shall not diminish or impair the effectiveness of such feature, it being in intent of this Court that the Surety Bond Program be approved in its entirety.

8. All applicable banks and other financial institutions are hereby authorized, when requested by the Debtors in their sole discretion, to receive, process, honor, and pay all prepetition and postpetition checks, drafts, and other forms of payment, including fund transfers, on account of the Surety Bond Program, whether such checks or other requests were submitted prior to or after the Petition Date.

9. The Debtors' banks and other financial institutions shall rely on the direction and representations of the Debtors as to which checks and fund transfers should be honored and paid pursuant to this order, and any such bank shall not have any liability to any party for relying on such direction and representations by the Debtors as provided for in this Order or for inadvertently honoring or dishonoring any check or fund transfer.

10. The Debtors' banks shall, at the direction of the Debtors, receive, process, honor, and pay all prepetition and postpetition checks and fund transfers on account of the Surety Bond Program that had not been honored and paid as of the Petition Date, provided that sufficient funds are on deposit in the applicable accounts to cover such payments and any such bank shall not have any liability to any party for relying on such direction by the Debtors as provided for in this order or for inadvertently failing to follow such direction.

11. To the extent the Debtors have not yet sought to remit payment on account of the Surety Bond Program, the Debtors are authorized, but not directed, to issue checks or provide for other means of payment of amounts owing under the Surety Bond Program.

12. The Debtors shall be and hereby are authorized to issue new postpetition checks or effect new postpetition fund transfers on account of the Surety Bond Program to replace any prepetition checks or fund transfer requests that may be dishonored or rejected.

13. Nothing in this Order or in the Motion shall be construed as prejudicing the Debtors' right to contest the amount or validity of any claim against the Debtors in connection with the Surety Bond Program.


14. Nothing in this Order is intended to conclude or decide that any Surety Bond or Indemnity Agreement is an executory contract, and to the extent any Surety Bond or Indemnity Agreement is an executory contract, nothing in this Order shall constitute the assumption of such Surety Bond or Indemnity Agreement under section 365 of the Bankruptcy Code.

15. The Court finds and determines that the requirements of Bankruptcy Rule 6003 are satisfied and that the relief requested is necessary to avoid immediate and irreparable harm.

16. Notwithstanding Bankruptcy Rules 6003 and 4001(c), and the potential applicability of Bankruptcy Rule 6004(h), this order shall be effective and enforceable immediately upon entry hereof.

17. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this order.

Dated: Wilmington, Delaware
May 23, 2013


The Honorable Brendan L. Shannon
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
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In re: : Chapter 11

:

EXIDE TECHNOLOGIES, : Case No. 13-11482 (KJC)

:

Debtor.¹ : Related Docket No. 168 , 291

:

----- X

**ORDER GRANTING DEBTOR’S MOTION FOR ORDER PURSUANT TO
BANKRUPTCY CODE SECTIONS 363 AND 364 AND BANKRUPTCY RULES 6003
AND 6004 AUTHORIZING DEBTOR TO MAINTAIN, CONTINUE, AND
RENEW ITS SURETY BOND PROGRAM**

Upon the motion (the “Motion”)² of the Debtor for an order, pursuant to sections 363 and 364 of title 11 of the United States Code (the “Bankruptcy Code”), and Rule 6003 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) authorizing, but not directing, the Debtor, solely to the extent permitted by its postpetition debtor in possession financing and agreements and documents related thereto (the “DIP Documents”), to maintain, continue, and renew, in its sole discretion, its Surety Bond Program; and upon the First Day Declaration; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by the Motion is in the best interests of the Debtor, its estate, its creditors, its stakeholders, and other parties in interest; and after due deliberation thereon, and sufficient cause appearing therefor, it is hereby

¹ The last four digits of the Debtor’s taxpayer identification number are 2730. The Debtor’s corporate headquarters are located at 13000 Deerfield Parkway, Building 200, Milton, Georgia 30004.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

ORDERED, ADJUDGED AND DECREED that:

1. Pursuant to sections 363 and 364 of the Bankruptcy Code, the Motion is GRANTED as set forth herein.
2. The Debtor is authorized, but not directed, solely to the extent permitted by the DIP Documents, to continue, maintain, and renew, in its sole discretion, its Surety Bond Program on an uninterrupted basis and to pay all postpetition obligations relating to the Surety Bond Program.
3. The Debtor is authorized, but not directed, in its sole discretion but solely to the extent permitted by the DIP Documents, to maintain and renew existing Surety Bonds and to procure new Surety Bonds with the Debtor's existing Sureties or any new or additional Sureties that become participants of the Surety Bond Program. In connection with the maintenance and renewal of existing Surety Bonds or the procurement of new Surety Bonds, the Debtor is authorized, but not directed, solely to the extent permitted by the DIP Documents, to (i) pay all premiums as and when due; (ii) provide letter of credit collateral or other acceptable collateral to secure the Surety Bonds; (iii) execute any other agreements in connection with the Surety Bond Program, including, without limitation, new Indemnity Agreements, and all related instruments, documents, and papers; and (iv) take all actions reasonably appropriate with respect thereto, in each case in accordance with the applicable documents governing the Surety Bond Program. As used herein, "Premiums" shall mean those premiums payable in the ordinary course of the Sureties' existing agreements with the Debtor, or any renewals thereof, the amounts of which were determined and assessed consistent with past practices and in the ordinary course between the Debtor and the Sureties as such practice and ordinary course existed prior to the commencement of the Chapter 11 Case.

4. Subject to paragraph 7 herein, any claim asserted by a Surety for indemnification under any Indemnity Agreement, related to or arising out of any actual, potential, or asserted liability of the Surety to any beneficiary or obligee under any Surety Bond shall be treated as a postpetition claim to the extent that the actual, potential, or asserted liability of the Debtor to any beneficiary or obligee with respect to such Surety Bond arises out of a postpetition breach of such bonded obligation.

5. To the extent that any Surety Bond is issued, is renewed, or remains in place postpetition without cancellation as part of the Surety Bond Program and is subject to a prepetition Indemnity Agreement, the Debtor's indemnification obligations under such prepetition Indemnity Agreement arising on account of such postpetition Surety Bond (including any reasonable fees and expenses of counsel as provided for in such Indemnity Agreement) shall be deemed to be postpetition obligations of the Debtor.

6. The Debtor is authorized to, in its discretion, provide collateral in connection with the postpetition renewal of Surety Bonds; provided, however, that any request for collateral and/or additional collateral for postpetition renewal of Surety Bonds shall only be made in amounts consistent with past practices and in the ordinary course between the Debtor and the Surety as such practices and ordinary course existed prior to the commencement of the Chapter 11 Case; to the extent that the Debtor seeks further bonding postpetition, or to increase the penal sum of any existing bond, it is authorized, but not directed, to provide collateral in its discretion as may be required in order to obtain such further or increased bonding; provided further that the Debtor will comply with such request or provide such additional collateral only in the event permitted pursuant to the DIP Documents.

7. If the Debtor is not in default with respect to the applicable Surety Bond or Indemnity Agreement (other than a default caused by the commencement of the Chapter 11 Case) and has paid all Premiums as and when due with respect to such Surety Bond, the protections to be afforded to the Sureties in the Motion or in this Order shall not apply to any Surety Bond as to which a Surety (a) has provided a cancellation notice or which it has refused to renew in the ordinary course in an amount which is not more than any such expiring Surety Bond and consistent with past practices; (b) has moved for relief from the automatic stay; (c) has made a demand for additional reserves or collateral pertaining to an existing Surety Bond or any renewal thereof; or (d) has enforced its rights with respect to collateral securing the same, except to the extent such enforcement is undertaken with respect to a letter of credit which would otherwise expire within thirty (30) days.

8. The failure to specifically describe or include any particular feature of the Surety Bond Program in this Order shall not diminish or impair the effectiveness of such feature, it being in intent of this Court that the Surety Bond Program be approved in its entirety.

9. To the extent the Debtor has not yet sought to remit payment on account of the Surety Bond Program, the Debtor is authorized, but not directed, to issue checks or provide for other means of payment of amounts owing under the Surety Bond Program.

10. The Debtor shall be and hereby is authorized to issue new postpetition checks or effect new postpetition fund transfers on account of the Surety Bond Program to replace any prepetition checks or fund transfer requests that may be dishonored or rejected.

11. Nothing in this Order or in the Motion shall be construed as prejudicing the Debtor's right to contest the amount or validity of any claim against the Debtor in connection with the Surety Bond Program, and nothing herein renders any claim by any third party (other

than a Surety) based on a prepetition actual, potential, or asserted liability of the Debtor, which claim may or does result in a loss to a Surety under the Surety Bond Program, into a postpetition claim or expense of administration. This paragraph shall not affect the rights of any Surety under paragraphs 4 and 5 hereof.

12. Nothing in this Order is intended to conclude or decide that any Surety Bond or Indemnity Agreement is an executory contract, and to the extent any Surety Bond or Indemnity Agreement is an executory contract, nothing in this Order shall constitute the assumption of such Surety Bond or Indemnity Agreement under section 365 of the Bankruptcy Code.

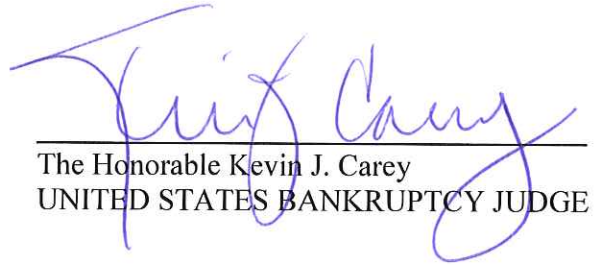
13. Nothing in this Order shall relieve the Debtor of any obligations under federal, state, or local police or regulatory laws or under 28 USC §959(b).

14. To the extent that there may be any inconsistency between the terms of the Interim Order (I) Authorizing Debtor (A) To Obtain Post-Petition Financing Pursuant To 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), And 364(e) And (B) To Utilize Cash Collateral Pursuant To 11 U.S.C. §§ 363, (II) Granting Adequate Protection To Pre-Petition Secured Parties Pursuant To 11 U.S.C. §§ 361, 362, 363 And 364 And (III) Scheduling Final Hearing Pursuant To Bankruptcy Rules 4001(b) and (c) (the “Interim DIP Order”) or any final order approving debtor in possession financing, if and when entered, and this Order, the terms of the Interim DIP Order or final order approving the proposed debtor in possession financing, as applicable, shall govern.

15. Notwithstanding Bankruptcy Rules 6003 and 4001(c), and the potential applicability of Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon entry hereof.

16. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: Wilmington, Delaware
July 10, 2013



The Honorable Kevin J. Carey
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

I, Thomas J. Francella, Jr, do hereby certify that on June 26, 2023, I caused a copy of the foregoing *Objection of Capitol Indemnity Corporation to the Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Maintain Insurance and Surety Coverage Entered Into Prepetition and Pay Related Prepetition Obligations, and (B) Renew, Supplement, Modify, or Purchase Insurance and Surety Coverage, and (II) Granting Related Relief* to be served upon the Court's CM/ECF System which reflects that an electronic notification of filing was served on all registered users of the CM/ECF System that have requested such notification in this proceeding, and on the parties on the attached service list by electronic mail, or in the manner indicated.

/s/ Thomas J. Francella, Jr.

Thomas J. Francella, Jr. (No. 3835)

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